No international instrument relevant to human rights, prior to 1993, makes any reference to the forbidden ‘S’ word (other than ‘sex’ as in biological sexes); that is prior to 1993, sexuality of any sort of manifestation is absent from international human rights discourse.

Rosalind Pollack Petchesky 2000:p82

Sociologists view rights as inventions. Rights are never ‘inalienable’, ‘given in nature’ or ‘handed to us by God’, though these may well be part of the claims made in order that they can become legitimated and accepted. Rather, they have to be assembled through political (and moral) conflicts and eventually institutionalized into laws, ordinances and declarations. It is a view that is often unpopular amongst ‘rights campaigners’ because the suggestion that ‘rights are inventions’ is somehow seen to weaken them. I do not hold this to be so, and cannot fail to see how all rights in the end come out of power struggles. To show just how rights are constructed may help to rob them of a curious mystique and mythological status and place them where they firmly belong – in the domain of political and moral talk. This chapter will examine some features of the ways in which rights are constructed through an illustrative case study of a very new area of rights – that of sexual rights. Fifty years ago the formal sexual rights of women, lesbians and gays were hardly recognized anywhere in the world (the Netherlands – and France, under the Napoleonic Code – being key exceptions), although there were localized struggles to change this situation. In general, such rights were denied or ignored; and traditionally gays as a group were castigated as ill, immoral or dangerous people deserving of treatment or penal sanction but certainly not ‘rights’. But it is a classic tale to make my point: a group with no rights at one point in time can assemble them at a later point.

Rights as Symbolic Interactions

To be clear about the position I argue from, it may help initially to schematise my general assumptions and argument. Drawing upon both symbolic interactionism, and social constructivist[1], I suggest that:

1. Rights are not given in nature merely waiting to be found.
2. Rights are inventions created by human agents through symbolic interactions. They involve the collective conduct and social meaning of many, and come into being through the interpretive and activist work of social movements and a diverse range of moral crusaders and entrepreneurs: from kings, prophets and philosophers to governments, social movements, writers, and NGO’s.
3. ‘Rights work’ involves many people in a continuous round of negotiated actions which
attempt to interpret, rationalize and define both social identities and related rights. ‘Rights work’ entails claims makers involved in ‘claims’ and counter-claims’, often animated by quasi-arguments and stories.

4. Rights work takes place in rights ‘arenas’ in public spheres.

5. Sometimes rights work leads to substantive claims made for rights on a broad and abstract level (human rights such as those laid down in various constitutions and charters); sometimes claims are made for very specific groupings (collective rights such as those of ethnic or indigenous groupings); and sometimes that are made for specific human identities.

6. Rights work moves through certain phases and stages. At one point, it is invisible and hardly articulated; at another it ‘finds a voice’; and at a later stage it can become habitualised and institutionalized.

7. All rights claims have histories and these are histories of contestation.

8. Rights claims are animated by schisms and fracturings.

9. The struggles over such rights take place not only in local arenas but also in global ones. They are part of emergent global flows and the search for a global citizenry.

10. Rights claims and counter-claims can become diffused and often this diffusion takes place on a global level.

11. Although rights can be analysed abstractly, the task for sociologists is to become intimately familiar with the crusaders, their claims and the social processes through which rights emerge. They need to see ‘rights’ as part of the day to day world of lived meaning, and not simply belonging to the theoretical and philosophical or even legal heavens.

12. Ultimately, ‘rights work’ takes place in morally grounded activities and political practices. It is a struggle over defining what it means to live a good life and to be human.

This is schematic and I do not have space to develop all of this below. Instead I plan to highlight only a few issues.

### Constructing Human Rights

A starting concern must lie with those who see human rights as inalienable, given, universal. They were heralded by natural law theories which somehow see such rights as given and inhering naturally in the world. Most religions subscribe to this view – rights (and obligations) may be seen to have been inscribed in Hammurabi’s Code, the Bible, the Q’ur’an, the Vedas. But for the interactionist, such texts do not have inherent meaning. This is clearly witnessed by the debates, schisms, conflicts, different interpretations such authoritative texts have generated throughout history. By contrast, others see rights as constructed: they are built by human beings. Constructionist positions look at the struggles generated around human rights, aware that meanings change over time and across different groups – that such meanings are contested. Constructionists look at the ways in which some people and groups (often social movements) are claims makers and do what might be called ‘human rights work’. They clarify laws, write justifications, generate reports and conferences, network in cyberspace, tell stories and generally provide rhetorics for human rights. They provide evidence and arguments, identify key types of people (homosexuals, trans-gendered, and people with AIDS), usually against a moral backdrop which helps identify ‘trouble’. Different claims makers and different moral backgrounds would lead probably to a different sense of just what these rights should be. So whilst gay activists champion ‘gay rights’, others would claim this infringes their rights. Likewise, such claims depend upon audiences who will hear and there is inevitable competition(s) between different claims to rights. The world of sexual rights almost inevitably speaks to moral codes: religious, organizational and humanitarian (See: Best, 2000; 2001; Loseke, 2003; Plummer, 1995 for accounts of the constructionist view in general).

The long view of rights.

Micheline Ishay (2004) has produced an account of the history of human rights (although she makes no claim to being an interactionist). Seeing this is history as a series of steps both forward and backward, she suggests five major waves: early times, the Enlightenment, Socialism and the Industrial Age, the World Wars and International Rights, and the Global Age. In each case, she
shows how little positive attention has been given to sexuality. For instance, in much of recorded
history, religions have been the seed beds of rights – they have laid out rule books, codes,
commandments, ‘ways of living’ for societies to observe – and although these are not rights per se
they often hint at the rights to come. Yet in most of these early codes, same sex relations are
strongly condemned. ‘Humanitarian’ as they often are in providing a seedbed of values on how to
live a goodlife, they are also harbingers of hate.

What interests me is that only in the last moments of these phases-what is sometimes called late
modern times (Giddens, 1991) do we start to hear a language of rights around sexualities. It is, as
international campaigner and academic Rosalind Pollack Petchesky comments, ‘the newest kid on
the block’ (2000). There are odd hints of such rights in nineteenth century feminism; hints which
grow in a few countries during the twentieth. In the US, the first major organizations to champion
gay rights appear in the late 1950’s (SIR – The Society for Individual Rights, along with The
Mattachine Society and the Daughters of Bilitis), about the same time as the HLRS and AT- the
Homosexual Law Reform Society and Albany Trust appear in the UK (and which goes on to
campaign for the 1967 Sexual Offences Bill/Act). But such concerns do not become part of the
global sexual citizenships debates until the 1990’s. We have here then a major recent case of the
struggle for rights – nobody spoke in such terms as the time of the foundation of the great rights
documents – such as those of the USA, France and the United Nations (cf Ishay,1997). Where were
women’s rights or gay rights – or more generally- sexual rights to be found in all this?

In part this fits a general model I have been developing elsewhere, suggesting some of the stages
through which this process of problem designation moves. In this case we are looking at the ways
1. Imagining ‘rights’
2. Articulating-vocalizing –announcing ‘rights’
3. Inventing identities – becoming storytellers about ‘rights’
4. Creating social worlds of ‘rights’
5. Creating a culture of ‘public rights’

Sociologists ask “how the dimensions are carved out, how the number of people drawn into
concern about these discussions is increased, how a common pool of knowledge begins to develop
for the arena participants, and how all these sub- processes increase the visibility of the
problem.”(Wiener,1981:14). Rights have long histories stretching back to ancient civilizations and
religions, even though the language of rights – ‘rights talk’ only really starts to come into its own
with the Enlightenment.

Stretching back into the nineteenth century, through pressure group activity and social movement
building in a number of countries across the world, ‘claims’ were slowly made for the right to
different kinds of sexual orientations and sexual activities. The chapter will examine some of the
claims made, some of the stories told, and some of the institutions built in order to create new
identities, make new laws and eventually establish codes of rights. It will also look at the ways in
which some lesbians and gays lay counter-claims (radically rejecting the established ( liberal
position), and seek counter-publics, whilst other groups make more conservative claims to suggest
that gay and lesbians should not have rights. Rights models remain in contestation. We shall also
see how ‘Sexual citizenship’ or ‘Intimate citizenship’ becomes a major discussion of the 1990’s
and comes to be applied to a wider range of sexualities (such as transgender groups and
sadomasochists). Again, at the same time, the notion of ‘gay rights’ is heavily contested in many
countries across the world and is challenged at the United Nations and in many religious
organisations. This chapter will outline this contestation, and the agenda for the future and argue
that ‘rights’, once gained, are never permanently settled, and can always be lost again

Making ‘Gay Rights’

Imagine a time, scarcely less than a hundred years ago, when there was hardly any talk about
sexual rights – let alone homosexual or gay rights (the words after all had hardly been invented
Throughout most of history such ideas had been more or less unknown, and indeed same-sex relations had usually been taboo through religious and legal sanctions. What we start to see are a series of phases in which such issues become more and more overt—whispered about, spoken about, organized around, campaigned over, and eventually—very recently—turned into full-scale ‘rights’ claims. This has involved a lot of crusaders both for and against; but bit by bit a gay agenda of rights has been evolved that could hardly have been dreamt about two centuries ago. There are now many discussions and listings of such rights (eg. Nussbaum, 1999). (Plummer, 1981).

Some of the issues now firmly on the agenda that could not have been raised in the past:

The rights of all people to participate worldwide in consensual acts of their choice

The acceptance of universal lesbian and gay rights, the inclusion of ‘sexual orientation’ in charters of human rights and anti-discrimination laws, and mandatory training in ‘multiculturalism’ and ‘gay affirmative action’ in many workplaces

Lesbian rights to be recognized as widely as women’s rights

The importance of ‘domestic / registered partnerships’ and ‘marriage’ for lesbian and gay couples

The gay right to adopt and have children, along with self-insemination for lesbians

The recognition of gays and lesbians in the military

The recognition of ‘Hate crimes’ which target lesbians and gays (and other groups) and the prevention of harassment

The recognition of materials speaking positively of (‘promoting?’) gays and lesbians in schools and the workplace, as well as the championing of widespread gay and lesbian erotica in art and elsewhere

The acceptance of Trans sexuality and transgender

The development of other erotic minorities rights

The struggle for gay rights has assumed different emphases such that what was once hardly imaginable as ‘on the agenda’ has now become reality. Thus, in its earliest days, the gay rights movement had as its focus the ultimate decriminalization of homosexual acts—and maybe the acceptance (or tolerance) of homosexuality (even if as an illness). These were the ultimate goals of the earliest gay movements. But by the times of GLF, the claims made were much more strident. There was the claim to legal equality; there was the claim to be accepted on equal grounds with heterosexuals; there was the claim to equal opportunities in school and work; there was the claim to be free from homophobic attack; there was the claim to behave as heterosexual might in the street—holding hands, even kissing (Gay is Good, pamphlet, 1970). The emphasis shifted from the decriminalization of specific sexual acts to a wider acceptance of equal rights for gays and lesbians. But as the movement gathered momentum, so the claims became ever more bold and inclusive.

By the mid 1980’s, claims were increasingly made that gays and lesbians should have equal rights to what came to be known as ‘families of choice’ (Weston, 1990). A dual emphasis—one on the rights to marriage, and the rights to raise children—became more and more prominent. Indeed, in a number of countries where equal rights had been obtained in a number of areas (the laws had been changed, equal opportunities charters had been introduced, governments had incorporated the thinking of many gays and lesbians into governmental policies), it was the only issue that seriously discriminated homosexuality from heterosexuality. And hence in December 1988, the first registered partnership took place in Denmark—followed in quick succession by a number of Scandinavian countries (Sweden, Norway, Iceland, Finland) and then others in Europe—the Netherlands being the first country to legislate for gay and lesbian marriages. Most countries within the European Union have legislated for partnerships. And so have many other countries across the world: from South Africa (also the first country to enshrine gay rights in its charter), Brazil (a country that also tried to make this a universal issue through the United Nations), and Mexico (though not—as is common—without its setbacks). In the United States, the situation is much more fractured, but one thing is clear: it has become a major source of cultural division between the pro and anti-gay lobbies. It seems to be a major source of ‘irreconcilable differences’ (Caramagno, 2002).
Does all this change simply mean the discovery of hidden natural rights? Or are they the active work of many people struggling to create a better life for themselves and others. To grasp this would really require a full scale historical study—something which has yet to be done (although there are now many excellent general histories eg Greenberg, 1988). Still, we can sense, if only schematically, how the changes unfolded.

From around the mid-late nineteenth century, the idea of ‘the homosexual’ as a kind of person comes into being – the clinical creature found in the writings of Richard Von Krafft Ebing for instance. Minor campaigns begin which attempt to take the homosexual out of the realm of law and place him within a medical model of understanding and treatment. By the start of the twentieth, in the works of those like Havelock Ellis and Magnus Hirschfield we start to see claims being made over the rights of these homosexuals – in the case of Hirschfield (whose work was ultimately destroyed by the Nazis), we see the creation of a centre and an organization designed to campaign for the rights not just of the homosexual but also the trans-sexual. (On all this, see Lauritsen and Thorsdad (1974); Oosterhuis (2000); Weeks (1990)). In the middle of the twentieth century, we see a proliferation of rather low key, often apologetic (but sometimes communist) organizations who start to put homosexual rights more and more on the political agenda (see D’Emilio (1983); Dorr Legg etc).

In the UK, a history extending from Oscar Wilde to the Wolfenden Report helped make a public language of homosexuality more and more accessible. (Westwood, 1949) The Wolfenden Report was the result of a government inquiry set up to look into several ‘homosexual scandals’ in the early 1950’s. This Commission established a framework for moral discourse in Britain about such matters— for all its flaws, it helped make homosexuality a public issue and crucial morals crusaders emerged around it – the HLRS and the AT (the Homosexual Law Reform Society and the Albany Trust). It argued that there was an area of personal morality that was simply not the law’s business. It argued for, and helped create, a public space controlled by the law and a private space which was not the law’s business. Stuart Hall has identified this as “Wolfenden’s double taxonomy: toward stricter penalty and control, towards greater freedom and leniency: together the two elements in a single strategy”. (Hall, 1980: p14). Ultimately, Wolfenden’s proposals came to be enshrined in the Sexual Offences Act, 1967 which effectively decriminalised homosexuality in England and Wales (but later in Scotland, 1980, and Northern Ireland, 1982). What Wolfenden so clearly reinforced was a public/private split – and along with this the culture of the closet. It was far from being a ‘rights document’: for whilst homosexual acts between consenting adults were no longer illegal, this was only so in private places between two consenting adults. The division of a public and private space was central to this, leaving the stigma of the past still hanging over homosexuality and keeping it a crime in many situations. For most gay men and indeed lesbians (who were not directly touched by the law), this still meant that their lives would be conducted in the closet. Gay cultures have been powerfully shaped by this: the culture of homosexuality was one of passing and hiding (Wolfenden, 1957; Hall, 1980; Plummer, 1981; Jeffery-Poulter, 1991).

The next striking stage in the creation of gay rights was the emergence of the The Gay Liberation Front in a number of Western countries in the late 1960’s and early 1970’s. In many respects a New Social Movement, it built on a politics of identity to bring out ‘gays’ as self identified people demanding rights. With new slogans, lists of demands and rights, badges and marches, it raised public awareness of homosexuality in a way that simply had not happened before. It made ‘coming out’ a major political process at the forefront of gay politics. ‘Gay was good’ and it was going visible (Walters, 1980; Weeks, 1990; Power, 1995). These new groups soon divided – either into factions that were more assimilationist, liberal and rights oriented (seeking equal rights with heterosexuals) or into those who were more radical and challenging (Marotta, 1981), establishing a split that continues to this day (see below).

Then came a broad phase which was bitter sweet: it was the arrival of HIV/AIDS between 1981 and 1986 and ironically it worked to strengthen the gay movement. For the first time, hitherto ‘outcast gays’ came to work with the government in shaping policies. They became professionalized. More than this, they had to deal with the linkage between gay rights and health rights – in many ways the latter was much more acceptable than the former, and hence new links over rights talks were established. Perhaps most significantly, since HIV/AIDS was an international issue, it brought gay
and health rights on to a world stage. We see the first stages of an internationally recognized gay movement (There were elements before but this firmly established it – The International Lesbian and Gay Association (ILGA) was founded in Coventry in 1979). I do not want to overstate this – AIDS was after all a serious pandemic which brought chronic illness, early death and tragic bereavement for many, disproportionately young men. But, in an ironic twist, it also brought a revitalisation and professionalism to a slumbering gay movement. (Davies et al, 1993; Berridge, 1996).

The Globalization and Anti-Globalization of Gay Rights Regimes

This globalization of gay rights is perhaps the most significant recent development. We have seen the diffusion of sexual rights claims across the world, and the creation of global sexual rights regimes. In part, this has been due to the rise of a global gay movement (Adam et al, 1998) along with an increasing search for ‘cosmopolitan democracy’ and ‘global citizens (Albrow, 1996). The Gay Movement has had more success with NGO’s such as Amnesty International and Human Rights Watch than with other groups.

But, in practice, as some nations have implemented quite wide ranging gay rights programmes, others have not. In some cases this is seen as another attempt by the west to impose its own values and claims (Altman, 1997, 2001; Bell and Binnie (2001); Binnie, 2004) But in many cases it is seen as much worse than this; as a serious clash of moral values – what has been called ‘the clash of sexual civilizations’. Modifying Huntington’s (in)famous thesis,

‘At this point in history, societies throughout the world (Muslim and Judeo-Christian alike) see democracy as the best form of government. Instead the real fault line between West and Islam, which Huntington’s theory completely overlooks, concerns gender equality and sexual liberalization… the values that separate the two cultures have much more to do with Eros than demos….. (Inglehart and Norris, 2003a: 65; 2003b)

In most ‘traditional’ societies the issue of gay rights remains abhorrent. Such relationships will be recognized and indeed are seen in opposition to human rights. In many countries around the world today sexual minorities are outcast: they may be bullied, harassed and mocked, discriminated against in work and school, suffer unfair arrest and imprisonment, be treated as ill, be rendered the victims of ‘hate crimes’, fined, flogged, tortured, raped, and executed. They may be driven into self loathing and suicide. More than 70 countries have laws which criminalized homosexual relations. In Iran, Afghanistan, Saudi Arabia and Chechnya, gay sex can lead to the death penalty. From Europe to Africa to the Americas to Asia, case after case of torture, ill treatment, violence and discrimination against lesbians and gay men is documented. In Columbia, “death squads” routinely target and kill gay men and transvestites as local authorities promote “limpieza social” (social cleansing). The death squads operate without fear of prosecution as the gunmen themselves are often police officers and gays are regarded as ‘disposable people’. There are also very many cases of transgender rights activists – ‘the ultimate gender outlaws’ – being abused across the world. In short, sexual minorities are seen to neither deserve rights nor to be treated as in any ways as equals. (see Vanessa Baird for documentation: 2001; 2004).

Nor has ‘gay rights work’ had much success at the level of international governmental organizations (IGOs) though rather more so with the informal level of NGOs. In the world of public cultures of human rights like the United Nations, sexual rights may be seen as the latest and neglected issue and their claims have been scarcely heard except through the women’s movement. Although implicitly they may be read into various charters of rights (the right to happiness and freedom etc could surely also mean sexual happiness and freedom), and although they have (a much shorter) history built from gay activism with their own gay charters, it is only very recently that they have specifically and directly entered the international public domain. And here it is mainly through the rights work of the women’s movement, and especially the work of the transnational women’s health movement which became galvanized in the UN sponsored women’s conferences in Vienna (1993), Cairo (1994) and Beijing (1995) that the situation started to change.
The Impact of Women’s Rights

Although traditionally the Women’s Movement’s core concern in this field has been with women’s reproductive rights, bit by bit they have been able to put together a much more wide ranging programme which claims sexual rights as human rights like any other essential rights. Women’s rights to sexual equality or their right to control fertility or the right to marriage, etc have been mentioned but it is only recently that sexual rights have made any headway. A section of the final Beijing document reads:

The human rights of women include their rights to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behavior and its consequences. (Petchesky, 2003:38)

In these debates many terms can get conflated: sexual rights, gay rights, reproductive rights, intimate rights, human rights, and a concern over sexual abuse and violence. They are not the same and each needs to delineate its own domain of duties and responsibilities. In particular, Miller suggests that sexual rights and reproductive rights should not be conflated, otherwise individuals engaging in non procreative sex (or non-sexual procreation?) can be disenfranchised. We need to see how these rights connect differently with different issues (Miller, 2000p96). Miller also wants to be clear about the right to be free from (what can be called a violations approach) and the rights to do something (a promotions approach).

Of course, such programmes as these have been open to much attack within the United Nations. Rights are always heavily contested (Smith and Wendes, 2000). Indeed, they depend upon contestation in order to take shape and be given life. Thus, the attacks on sexual rights come from many sides: from the Vatican, from Muslim Organisations, from the US government and President Bush. And such right wing and fundamentalist backlashes serve to make the rights claims more visible, whilst simultaneously managing to impede them. Nevertheless, Rosalind Petchesky is hopeful about the future, suggesting that ‘slowly and incrementally, women’s determination.. to gain some control over their fertility and bodies was starting to make an impact on international human rights’ (2003: 39).

Backlash: The Global Family Movement

One interesting ‘backlash’ alliance between the major monotheistic religions across the world (Conservative/ fundamentalist versions of Christianity, Islam and Judaism) emerged during the latter decades of the twentieth century to establish what might be called a ‘natural family agenda’. A key organization, the Howard center, puts it well:

The World Congress of family’s coalition model represents the final opposition for an effective pro-family model world wide. All coalition members, usually orthodox religious believers, are asked to set aside their own personal theological and cultural differences and agree on one simple, unifying concept: the natural family is the fundamental unity of society. If coalition members can agree on this concept, then all of their other disagreements may take a back seat'. (Cited in Buss and Herman, 2003: xiv)

This includes such organizations as the Catholic Family and Human Rights Institute, The Howard center itself, Human Life International, the Family Research Council, Concerned Women for America, the World Family Policy Center, and of course The Vatican. The Vatican has not only decreed in various encyclicals, but also has ‘permanent observer’ status at the United Nations. The
‘Holy See’ is the official face of the Vatican at the UN. It has led to the World Congress of Families (WCF). They also produce what Buss and Herman have called ‘Christian right Social Science’ (2003: xxxiii) It has played a key role at a number of international conferences (Cairo, Cairo+5; Beijing, Beijing+5) with all kinds of strange bedfellows (not just Christians with Muslims, but Catholics with Protestants!) joining forces globally against the ‘global liberal agenda’ – and more specifically with feminism, humanism and lesbian and gay rights along with socialism, environmentalism and ‘new age spirituality’. Sexual rights are strongly contested.

Towards Intimate Citizenship?

One of the most recent developments in the struggles for sexual rights has been the turn to ‘citizenship debates’.

Citizenship has a long history, and in recent years has become something of a buzz word. What is crucial in all of this is the construction of subjects (or subjectivities) to which rights and obligations may be ascribed. T.H. Marshall’s classic model of citizenship (1950) suggested a development model of civil, legal and welfare rights emerging in Westernized societies. But these days it is used more broadly and has come to signify a model of ‘social inclusion’ or ‘full participation’, and has been harnessed by feminist and lesbian/gay political agendas seeking to claim their own ‘social inclusion’ but drawn upon a much wider canvass (cf Lister, 1998; Richardson, 1998, 2000).

The starting point for discussions of sexual citizenship was David Evans’s *Sexual Citizenship*, published in 1993. He is sharply critical of the conventional use of the term; as he puts it:

The history of citizenship is a history of fundamental formal heterosexist patriarchal principle and practices ostensibly progressively ‘liberalized’ towards and through the rhetoric of ‘equality’ but in practice to effect unequal differentiation’ (p9)

Evans here is making a point close to the idea of civic stratification discussed in Ch X, and moves on to introduce his own concept of sexual citizenship ‘which involves partial, private and primarily leisure and life style membership’ (p 64) and which he connects to the market. Most of the book is given over to discussions of specific groups mainly in the UK context, and his major example is of course ‘gay rights and the ‘homosexual’. But he goes further and also considers the sexual rights linked to women, bisexuals, transsexuals and children. What is crucial in all of this is the construction of subjects (or subjectivities) to which rights and obligations may be ascribed. Sometimes this can be controversial: in mentioning children -and asking if they are sexual citizens with sexual rights- he heads straight for a minefield of controversies connected to the boundaries of sexualities. But such issues needed surely to be placed on the agenda, along with the more accepted rights of a child’.

A few years later, one of the leading UK sex analysts, Jeffrey Weeks also raised doubts about the ways in which the idea of citizenship had been used in the past. He sees it as a ‘major element of sexual politics since the 1970’s, largely in the form of campaigns for rights.’ (p118) But the articulation of the ‘sexual citizen’ is much more recent and has made much more formal and explicit the idea of sexual rights on which much of the gay and lesbian debates had been developing over the past thirty years. He sees a new ‘Sexual Citizen’ arriving, and charts how this idea may help move forward politics connected to the relationships between men and women, families, the denaturalization of the sexual, balancing different communities and their claims and trying to live life with diversity and common humanity. Likewise, Bell and Binnie look at the place of sexuality in both political and social theory showing how the sexual is (still, after all these years!) routinely minimized, written out, ‘trashed’. As they say, in a telling statement: ‘ we consider all citizenship to be sexual citizenship, as citizenship is inseparable from identity, and sexuality is central to identity’. For them, sexual issues go to the heart of citizenship, and with that the theory of inequalities and the state. Finally then, by the early twenty first century, hitherto marginalized discussions of sexual rights start to assume prominence in citizenship theory.
There are a growing number of thinkers who are examining these citizenship rights. Diane Richardson for instance, drawing on both lesbian politics and women’s rights, argues that ‘we live in an age when the politics of citizenship increasingly define ‘sexual politics’:

Globally we are witnessing gay and lesbian movements (and sometimes bi/sometimes transgender) which demand ‘equal rights’ with heterosexuals in relation to age of consent laws, to healthcare, rights associated with social and legal recognition of domestic partnerships including the right to marry, immigration rights, parenting rights, and so on. In a similar vein, there are groups campaigning for ‘transsexual rights’ including the right to sex change treatment on the National Health Service, the legal right for birth certificate status to be changed, and related to this the right to marry legally. Recently there have been attempts to place ‘sexual rights’ on the agenda of disability movements, especially in relation to disabled people’s rights to sexual expression….We can even see some evidence of the language of citizenship being used in movements or campaigns whose politics are definitely not about seeking formal equality with heterosexuals. An example of this is the focus on prostitution as a human rights issue by some radical and revolutionary feminists (p9)

Again, she looks at the classic models of citizenship, and trying to see how they may be applicable to lesbian and gay rights she finds them severely lacking. She sees that claims to citizenship status generally are not just guilty of strong male bias, a point made by many feminist writers. The problem goes further: citizenship also privileges heterosexuality. ‘Within discourses of citizen’s rights…the normal citizen has largely been constructed as male, and…as heterosexual’. Hence she goes on from this to identify a number of areas where the rights of sexual – as opposed to heterosexual – citizenship should be claimed. She names three main areas of sexual citizenships and rights. The main areas for her are: (a) Seeking rights to various forms of sexual practice in personal relationships, including pleasures and self determination (e.g. the right not to be raped, as well as the right to have children). (b) Seeking rights through self identity definition, like the option to name the kind of sexual person one is, alongside the right to self realization. (c) Seeking rights within social institutions: public validation of various forms of sexual relationship including the right to choose partners and the right to public recognition (p75) Her arguments lead us to see that just as citizenship is racialized and gendered, so it has been sexualized.

My own concerns have gone beyond the idea of sexual citizenship. Whilst this is an important issue, late modern times are witnessing a considerable array of new personal or intimate dilemmas. Establishing rights and obligations around sexuality are important; but so too are the new decisions that have to be taken over assisted conception (from surrogate mothering to the freezing of sperm and embryos), the buying and selling of body parts, the making of new kinds of families, the new ‘transitionings’ over gender (as men become women and women become men), the development of new relationships over the internet, and the new medical technologies such as Viagra and ‘morning after pills’ which could change the ways in which we conduct our personal lives. Again, these are all globally contested areas. They lead to debates around what I have called elsewhere, Intimate Citizenship.(Plummer, 2003).

Queering Citizenship

A recent development has been a shift from the analysis of ‘sexual rights’ to those that emphasis ‘queer theory’. This position which developed in the late 1980’s in the work of Butler, Sedgwick and Warner challenged the orthodox terminologies of gay, bisexual, lesbian, male and female and advocated a language of de-construction, de-stabilisation and de-polarisation (cf Plummer, 2005). In this argument there could be no straightforward view of sexual rights, which is seen as a process of the normalization of sexuality. It shuns for instance the notion of the ‘good and responsible lesbian and gay citizens’ who are inside the charmed circle of citizens, with a world of gay and lesbian married couples raising their children. Instead it looks at a ‘a less respectable, dangerous gayness’ composed of the sexual outlaw, the sexual fringe, the transgressor. Smyth (1994) makes a particular point about the sexualized lesbian: to see lesbians as highly sexualized, fetishistic, ‘fucking ’ creatures poses a threat to the usually desexualized image of the lesbian citizen. The radical edge of being gay and sexual cannot be simply assimilated into a culture of rights and
obligations.

The process being highlighted here has been called ‘normalization’ (Phelan, 2001). Whilst the normal citizen has been stretched to include the homosexual and the sexual being, it only includes those who fit a certain model – those who want families, conform to gender roles, link love and sex; they do not want to stress their differences but their sameness, they want to have and raise children, they want to be inside the armed forces: they share ‘family values’. Often they are models of middle class consumption and individualism. All this has been challenged by the queer movement which raises orthodox ‘sexual rights’ as a problem, and starts to speak instead of ‘queer rights’ as part of a new order entailing a transgression of all categories, a celebration of marginalities and dissidence. For some this may mean the arrival of ‘bi-theory’ and ‘gender bending’ as a way of unsettling the certainties of the sexual and gender orders. It has meant, in almost ironic twist, the arrival of gay men who have sex with women, and lesbians who have same sex with men!

A leaflet circulating in 1991 put it bluntly:

Queer means to fuck with gender. There are straight queers, bi queers, tranny queers, lez queers, SM queers, fisting queers in every single street in this apathetic country of ours... Each time the word ‘queer’ is used it defines a strategy, an attitude, a reference to other identities and a new self understanding. (And queer can be qualified as ‘more queer’, ‘queer’, or ‘queerest’ as the naming develops into a more complex process of identification ). (Smyth, 1992 :p17; p20)

So ‘queer’ means theoretically deconstructing and postmodernising; practically breaking down all categorisations in gender, erotic and intimate lives; and politically following the above through to sustained critiques of the existing sexual/gender rights systems and working to change them.

**Conclusion: Contested Constructions**

All these issues are of course strongly and hotly contested, but compared to what could have been argued one hundred years ago, the agenda on sexual and intimate rights is looking strikingly different. Most of the above claims were hardly even thinkable then. What we have witnessed, at the closure of the twentieth century and the opening years of the twenty first, has been not just the fulfillment of some of the main claims of an earlier Lesbian and Gay Movement, but many of their wilder dreams also becoming a reality in some parts of the world. This is not to disagree with the claims that in all countries there still exist massive and pervasive forms of domination, persecution and discrimination for lesbians and gays and that in many countries throughout the world, no gains at all have been made. But it is to start to recognize that many gains have been made in many places – even though these are very uneven and leave many groups still excluded. A new visible Public Culture of Lesbian Rights, Gay Rights, Transgender Rights – indeed Intimate Citizenship or even Queer Citizenship – are in the process of being created, even as they are contested.

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Notes

[1] Symbolic interactionism was a term coined by Herbert Blumer in 1937 (1969) to capture the grounded analysis and intimate familiarity with the creativity of action in social life and the lived processes of everyday life and the languages and meanings that emerge through them. Allied is the constructionist view, which does not see social life as obdurate and fixed but as produced through social life (Berger and Luckmann, 1967). It has been argued by Maines (2001) and Atkinson and Housley (2003) that these positions are really quite widespread within sociology, even if often not acknowledged. They are closely linked to the philosophical traditions of pragmatism identified with Dewey, James and Mead – and more recently Rorty. In any event such positions shape my arguments in this paper.

[2] For example, see Martha Nussbaum’s discussion (1999: Ch 7). Here she lists: The right to be protected against violence, and in general, the right to equal protection under the law; The right to have consensual adult sexual relations without criminal penalty; The right to nondiscrimination in housing, employment and education; The right to military service; The right to marriage and/or its legal benefits; and The right to retain custody of children and/or to adopt.

[3] Side by side with this listing is a concern over discriminations – which range from sexual offences laws, the use of beatings and tortures in custody, hate crimes, invisibilities, the concern over young gays and lesbians and discriminations against them, employment discrimination, freedom of expression and association, religious leaders supporting discrimination etc… (See Beger, 2005 p107).

[4] As ever we must beware of the dangers of essentialising homosexuality and making it look the same across cultures and throughout history. The important work of the late historian John Boswell (1994) – although himself an essentialist! – shows that same sex marriages have existed in the past.

[5] In 1993, ILGA was granted ‘roster status’ as an NGO by the UN Economic and Social Council (but later withdrawn, as they could not convince it did not condone sex between adults and minors). It now some 300 ILGA members groups in more than 80 countries (Felice, 1996 p48). Its key slogan is that ‘Gay Rights are Human Rights’

[6] Generalist and abstract accounts of sexual rights often draw upon the broad claims of earlier charters. For instance, the charter drawn at the World Congress of Sexology in 1999 often just seems to add the word ‘sexual’ to rights that have generally been at the forefront of the rights movement. To illustrate: they suggest some eleven rights. (Such as the rights to sexual freedom which encompasses the possibility for individuals to express their full sexual potential. However, this excludes all forms of sexual coercion, exploitation and abuse at any time and situations in life.

Cosmosexualities

And so what is Cosmopolitan Sexualities?

Brief guidelines for a ‘sexual ethics’ (see pages 37-6)

Brief Time Line

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Selected Writings

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Gay Cultures/ Gay Rights

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Intimate Citizenship in an an Unjust World

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This timeline provides information about the gay rights movement in the United States from 1924 to the present: including the Stonewall riots; the contributions of Harvey Milk; the "Don't Ask, Don't Tell" policy; the first civil unions; the legalization of same-sex marriage in Massachusetts, Connecticut, New York; and more. 1924. The Society for Human Rights in Chicago becomes the country's earliest known gay rights organization. 1948. The first lesbian-rights organization in the United States, the Daughters of Bilitis, was established in San Francisco in 1955. 1956. The Daughters of Bilitis, a pioneering national lesbian organization, is founded. Also on Election Day, gay marriage is approved in a popular vote for the first time. Maine and Maryland vote in favor of allowing same-sex marriage. According to the results of the survey, the number of LGBT respondents who said they are "out" in their practice has dropped to 73 per cent. This compares to 80 per cent of respondents the last time data was collected by the Architects' Journal (AJ) in 2016. Outside of London, the percentage of LGBT+ respondents open about their sexuality or gender in the office drops even further to just 62 per cent. Homophobic and transphobic slurs on the rise. The survey also reveals a rise in the number of LGBT+ architects who feel "being